



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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November 28, 2011

Dr. Roy E. Crabtree
Regional Administrator
Southeast Regional Office
National Oceanic and Atmospheric Administration
263 13th Avenue South
St. Petersburg, Florida 33701

Subject: EPA NEPA Review Comments on NOAA's FEIS for "Generic Annual Catch Limits/Accountability Measures Amendment for the Gulf of Mexico Fishery Management Council's Red Drum, Reef Fish, Shrimp, Coral and Coral Reefs, Fishery Management Plans"; CEQ #20110362; ERP# NOA-A91080-00

Dear Dr. Crabtree:

The U.S. Environmental Protection Agency (EPA) has reviewed the subject National Oceanic and Atmospheric Administration (NOAA) Final Environmental Impact Statement (FEIS) in accordance with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. EPA understands that the purpose and need for Generic Annual Catch Limits (ACL)/Accountability Measures (AM) amendment is to implement measures expected to prevent overfishing and achieve optimum yield (OY) while minimizing to the extent practicable adverse social and economic effects and the need is to specify overfishing limits (OFLs), ACLs, and AMs, where needed and comply with Reauthorized Magnuson-Stevens Act requirements.¹ EPA also understands that the Gulf of Mexico Fishery Management Council (Council) is the lead agency proposing this action. EPA previously reviewed the Draft Environmental Impact Statement (DEIS) for the proposed action and provided comments to NOAA on August 15, 2011.

NOAA evaluated 7 action areas within the FEIS which included: 1) Management of Species by Other State or Federal Agencies; 2) Removal of Stocks from Reef Fish Fishery Management Plan; 3) Species Groupings; 4) Acceptable Biological Catch Rule; 5) ALC/ACT Control Rules; 6) Generic Framework Procedure; and 7) Initial Specification of Annual Catch Limits. EPA understands that these actions would:

- Transfer management of selected species to state or federal Agencies,
- Remove selected stocks from the Fishery Management Plan for Reef Fish Resources of the Gulf of Mexico,
- Develop species groupings to reduce the risk of exceeding catch limits,
- Describe the process by which acceptable biological catch will be specified to account for scientific uncertainty,

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- Develop initial specification of annual catch limits procedures to address for management uncertainty,
- Develop standardized framework procedures for implementing management changes pursuant to the provisions of the fishery management plans,
- Establish annual catch limits (and/or annual catch targets for species that do not currently have harvest quotas and,
- Establish accountability measures for each of the catch frameworks.

EPA has a responsibility to review and comment on major Federal actions significantly affecting the quality of the human environment, including FMPs and FMP Amendments (Amendments) as developed, approved, and implemented under the MSA where those Plans and Amendments are subject to the EIS requirement of NEPA, but it should be clear that we defer to NOAA and the Councils as to the development of fishery statistics and the relative importance of the commercial and recreational fisheries for each species.

EPA appreciates that NOAA provided a dedicated section at the end of the FEIS that provided specific responses to our previous comments on the DEIS. We have chosen to focus our review and comments on NOAA's responses to our previous comments.

EPA Comments:

Executive Summary:

In past NOAA EISs, a clear description of each proposed action with preferred alternatives has been outlined in the executive summary section. Often a table has been used to display the proposed actions and alternatives along with the potential impacts associated with each action. EPA prefers this approach as it provides a clear visual for the reader of the proposed actions and the environmental consequences of each action. EPA recommends that this format be used in future NOAA EISs.

Display of Preferred Alternatives:

As stated previously, we understand the challenges of conveying clear alternatives and sub-alternatives (options) to the public especially when it comes to amendments to FMPs. However, EPA continues to advocate for simplification of the alternatives considered under proposed actions when possible.

Stakeholder Involvement:

Our previous comments regarding stakeholder involvement may have been misinterpreted by NOAA. EPA was in no way suggesting that NOAA was not complying with CEQ regulations (§1501.7), we were merely requesting NOAA include a more detailed description of how NOAA and the council engages the public during the NEPA process. The response to our comment at the end of the FEIS is more than adequate, and we recommend a similar write-up be included in future NOAA EISs.

Economic Analysis:

EPA appreciates the additions to the economic analysis section and we have no further comments.

Social Vulnerability:

EPA finds the response to our concerns regarding the social vulnerability section adequate and recommends that NOAA provide similar information regarding the SoVI in future EISs for clarification purposes.

Web-links for References:

EPA made a comment regarding inclusion of a web link for Amendment 30b (GMFMC 2008b). Although, NOAA provided a link for the Amendment 30b reference in the "Response to EPA Comments" section at the end of the FEIS, this information still is not included in the main body of the FEIS or in the reference section of the document. EPA recommends that, whenever possible, links to reference documents should be provided in EISs (main body or reference section) to ensure that the public has the best opportunity to locate these documents.

ESA Consultation:

EPA has no further comments.

Summary:

EPA supports NOAA and the Council on the Generic ACL/AM amendment and gives deference to their fishery expertise. Lastly, we request a copy of the NOAA ROD.

Should NOAA or the Council have questions regarding our comments on the Amendment actions, please feel free to contact Dan Holliman at 404/562-9531 or holliman.daniel@epa.gov of my staff.

Sincerely,

A handwritten signature in blue ink, appearing to read "Heinz J. Mueller" with a stylized flourish at the end.

Heinz J. Mueller
Chief, NEPA Program Office
Office of Policy and Management